

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

F'REAL FOODS, LLC and)
RICH PRODUCTS CORPORATION,)
Plaintiffs,)
v.) C.A. No. 16-41 (CFC)
HAMILTON BEACH BRANDS, INC.,)
HERSHEY CREAMERY COMPANY and)
PAUL MILLS d/b/a MILLS BROTHERS)
MARKETS,)
Defendants.)

**PLAINTIFFS' MOTION IN LIMINE TO
PRECLUDE PRIOR ART UNDER 35 U.S.C. § 315(e)**

Pursuant to Paragraph 15 of the Supplemental and Amended Scheduling Order [Patent Case] and the Court’s directive at the November 27, 2018, status conference, Plaintiffs submit this motion *in limine* to preclude Defendants from asserting at trial that Claim 21 of U.S. Patent No. 7,520,662 is “invalid on any ground that the petitioner raised or reasonably could have raised” during the *Inter Partes* Review of that patent (IPR2016-01107) under 35 U.S.C. § 315(e)(2). The basis for this motion is set forth in Plaintiffs’ opening brief, submitted concurrently. A proposed order is attached.

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December 14, 2018

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FOR THE DISTRICT OF DELAWARE

F'REAL FOODS, LLC and)
RICH PRODUCTS CORPORATION,)
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Plaintiffs,)
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v.) C.A. No. 16-41 (CFC)
) CONSOLIDATED
HAMILTON BEACH BRANDS, INC.,)
HERSHEY CREAMERY COMPANY and)
PAUL MILLS d/b/a MILLS BROTHERS)
MARKETS,)
)
Defendants.)

[PROPOSED] ORDER

Before the Court is Plaintiffs' Motion *In Limine* To Preclude Prior Art Under 35 U.S.C. § 315(e). After consideration of the motion, briefing, and the evidence and arguments presented, the Court is of the opinion that said motion should be, and is, GRANTED.

IT IS THEREFORE ORDERED that Defendants are precluded pursuant to 35 U.S.C. § 315(e)(2) from asserting at trial that Claim 21 of U.S. Patent No. 7,520,662 is invalid in light of any of the following prior art combinations:

- i. Admitted Prior Art in view of Kelly and Miller;
- ii. Admitted Prior Art in view of Sato and Miller;
- iii. Admitted Prior Art in view of Sato, Miller, and Supervielle;
- iv. Admitted Prior Art in view of Sato and Supervielle;
- v. Nielson in view of Sato and Miller;
- vi. Nielson in view of Sato, Miller, and Supervielle; or
- vii. Nielson in view of Sato and Supervielle.

Dated this ____ day of _____, 20____

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2018, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on December 14, 2018, upon the following in the manner indicated:

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